



Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
TODD E. KISER
Acting Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: March 10, 2014 **Time:** 9:00AM **Place:** East Bldg, Copper Room

MEMBERS

(Attendees=x)

COMMISSION MEMBERS

xChair, Kirk Smith, <i>Weber Cnty</i>	xMatt Sager, <i>Maricopa Cnty, AZ</i>
xCo-Chair, Larry Blake, <i>Washington Cnty</i>	xSylvia Andersen, <i>Public Member</i>
xJeff Wiener, <i>Salt Lake Cnty</i>	

DEPARTMENT STAFF

xPerri Babalis, <i>AG Counsel</i>	xBrett Barratt, <i>Deputy Comm.</i>	xMark Kleinfeld, <i>ALJ</i>
Suzette Green-Wright, <i>MC Dir.</i>	xTammy Greening, <i>Examiner</i>	xJilene Whitby, <i>PIO Recorder</i>

PUBLIC

Tige Garner	Pete Stevens	Carol Yamamoto
Russ Nance	James Seaman	Blake Heiner
Tarry ?	Lincoln Scoffield	Glen Roberts
Scott Siler		

MINUTES – NOT APPROVED

General Session: (Open to the Public)

- **Welcome** by Kirk Smith, Chair, at 9:05am.
- **Adopt Minutes of Previous Meeting**
Motion by Matt to adopt minutes with two changes suggested by Jeff:
 - Second page, first bullet, “Williams Title,” second to last line should read, “*All they know is that 461 closings were made ~~with a lapsed~~ will not qualify to hold a title producer license.*”
 - Third page, second bullet under New Business should read:
 “*CFPB has released rule ~~with which~~ outlines ~~of~~ numerous costs that will go into effect with the rule in 2015. Costs ~~could~~ would impact ~~be passed on to~~ consumers if ~~not~~ and should be addressed now.*”

Larry seconded Matt’s motion and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report** / Tammy
Motion by Jeff to concur with licensing report, seconded by Sylvia, vote was unanimous.
 - **Concur with Complaint & Enforcement Report** / Brett
 Brett noted that Icase 629247 on page 9 is a Public Letter and is available on the Department’s website. Jeff made a **motion** to concur with the report, Matt seconded it and the vote was unanimous.
 - **Report total number of title licensees** / Brett
 As of last week there were 16 companies, 147 agencies and 1,512 producers licensed by the Department.
 - **Request for Dual Licensee Expedited Request:** None
 - **Request for Attorney Exemption:**
- **Administrative Proceedings Action** / Mark Kleinfeld, ALJ
 - **Stipulation & Order:**

- **Hillary Martin**
Ms. Martin did not appear or file a response at the January 21, 2014 prehearing. A Default Order has been prepared revoking her license. Matt made a **motion** to concur with the Department's recommendation, Larry seconded it, vote was unanimous.
- **Request for a Hearing:** None
- **Order to Show Cause:** None
- **Informal Adjudicative Proceeding & Order:** None
- **Notice of Formal Adjudicative Proceeding:** None
- **New Business**
 - **New Prohibited Escrow Settlement Closing Transactions Rule / Jeff**
 - Jeff Thanked James for preparing the rule draft and obtaining comments. The idea is transform the bulletin into a rule.
 - Larry suggested the Purpose and Scope section address the requirement that each transaction have a policy. Jeff proposed that R592-XX-2(2) read:
"...privity, ~~and those~~ where no statutory authority exists for the title insurer, agency title insurance producer or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and R592-6-4(5), and title insurance is not provided as required under 31A-23a-406(c)."
 - Discussed bonified and simultaneous transactions, and third party financing. In answer to Larry's concern that the Purpose and Scope section of the rule did not cover the purpose and scope of the policy, Jeff made a motion to eliminate "own" in R590-XX-4(4). "Own" is not defined in the code but "good funds" is. The motion was seconded by Larry and the vote was unanimous. Jeff asked that everyone review these changes and come to the next meeting prepared to discuss it further.
- **Old Business**
 - **Update: SIRCON Sending Lapse Notices to Both Insurers & Agencies / Brett**
SIRCON is sending lapse notices to insurers now. It will take months before SIRCON will send lapse notices to agencies. Once SIRCON has set up the process with Texas we will ask that the same process be set up for Utah. Pre-lapse notices will not be sent.
Motion by Larry to remove this item from the agenda, Jeff seconded it and the vote was unanimous. **Brett was asked** to let the Commission know when issue is resolved.
 - **Discuss Proposed Changes to R592-2, Administrative Hearings / Matt**
 - Matt reviewed changes in the rule. Kirk asked if there were any questions or comments. There were none. Brett approved the wording. Matt emphasized that R592-2-7(3) still requires the Commission and commissioner to concur with all penalties. When Tammy asked what if they don't agree, Matt said the statute requires that we talk it out until there is agreement. Jeff said that in the informal process the Commission will have the facts, allowing for an open discussion.
 - Commissioner Kiser expressed appreciation for the open dialogue and expertise of attendees and the Commission. He said Senator Bramble would present legislative changes during the interim that might require further changes to the rule. Matt thanked Commissioner Kiser for his involvement.
 - **Motion** by Jeff to start the formal rulemaking process, seconded by Sylvia, vote was unanimous.
 - **Review Status of Filed Rule R592-8-5, Attorney Exemption / Brett**
 - The comment period for Rules R592-8-5 and R592-11 ended 3-3-2014. The earliest possible effective date is today, 3-10-2014.
 - Brett was asked by the Commission if the rule were to be put into effect today would there be enough time for the Department and title licensees to comply with the new requirements by the April filing deadline. Brett did not think the changes were significant enough to be a problem. The law already requires title and escrow to be

reported separately. Perri asked if the form was ready. Tammy said it was. ULTA representative said 75-80% of the industry is already tracking title and escrow expenses and income separately. He thought the rules could be put into effect now.

- Jeff made a **motion** to make the changes in both rules effective today, seconded by Matt and the vote was unanimous. The Commission asked that the industry be advised of the updated rules and forms.
- Brett provided a handout prepared by Suzette showing how the Department will enforce Rule R592-11. It lists suggested remedies when an agency is out of compliance. After annual reports are filed and assessed, the Department will prepare aggregated results, minus names, and present results to the Commission.
- It was decided that the Transmittal form should include names of qualified licensees. It should also say that placing this information here does not supersede the requirement to file with SIRCON. The form will also ask for address of new locations with the note that new address must be given to SIRCON also.
- Commission asked that rules be put into effect today, even if the form takes a few more days to update.
- Joe, representing ULTA, noted that small offices are having problem separating title and escrow duties when one person does both. After discussion Joe said ULTA would provide guidelines to these small businesses.
- Jeff suggested putting information from Suzette on the web.
- **Status of Filed Rule R592-11, Annual Reports** / Brett
See discussion regarding R592-8-5.
- **Legislative Update**
 - Commissioner Kiser noted that HB 24, Insurance Related Amendments, passed and was put into HB 76, Insurance Related Revisions, where the funding cap was eliminated.
 - James reported passage of the following bills:
 - HB 16, Wrongful Lien Amendments;
 - HB 29, County Recorder Index Amendments;
 - HB 42, Construction Lien Amendments;
 - SB 15, Reemployment Restrictions Amendments;
 - SB 130, Trust Deed Foreclosure Amendments;
 - SB 79, Uniform Real Property Electronic Recording Act, is still out there (was later passed)

SB 153 2S, Association Foreclosure Amendments, was defeated.
- **Williams Title Guaranty and Escrow Agency, Ltd, Inc.** / Perri
Gary Jorgenson of the AG office, has asked that discussion of this topic be postponed.

- **Other Business – None**

Executive Session: NA

- **Adjourn:** At 10:30 Matt made a **motion** to adjourn, seconded by Jeff at 10:30.
- **Next Meeting:** April 14, 2014, Copper Room

2014 Meeting Schedule
(2nd Monday except in October)

Jan 13	Feb 10	Mar 10	Apr 14	May 12	Jun 9
Jul 14	Aug 11	Sept 8	Oct 20	Nov 10	Dec 8